

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Freddie McCoy,

Plaintiff,

Case No. 06-CV-10837

v.

HONORABLE DENISE PAGE HOOD

State of Michigan,

Defendant.

ORDER DENYING LETTER-MOTION FOR RECONSIDERATION

On March 31, 2008, the Court entered a Judgment and Order granting Defendant's Motion for Reconsideration, dismissing the action based on Eleventh Amendment immunity. On May 9, 2008, Plaintiff filed a Notice of Appeal and an Application to Proceed *In Forma Pauperis* on Appeal. The Court denied Plaintiff's Application to Proceed *In Forma Pauperis* on June 4, 2008. On July 18, 2008, Plaintiff submitted a letter to the Court, entitled "Dishonesty in the Courtroom." The letter essentially seeks reconsideration of the Court's Order and Judgment. The Court considers the letter as a Motion for Reconsideration of the Court's March 31, 2008 Order and Judgment.

An amendment of an order after a judgment has been entered is governed by Rule 59(e) of the Federal Rules of Civil Procedure and/or E.D. Mich. Local Rule 7.1(g). Rule 59(e) provides that any motion to alter or amend a judgment shall be filed no later than ten (10) days after entry of the judgment. Fed. R. Civ. P. 59(e). The Local Rules of the Eastern District of Michigan provide that any motion for reconsideration shall be served not later than ten (10) days after entry of such order. E.D. Mich. LR 7.1(g)(1). No response to the motion and no oral argument thereon shall be allowed unless the Court, after filing of the motion, otherwise directs. E.D. Mich. LR 7.1(g)(2). The Local

Rule further states:

(3) **Grounds.** Generally, and without restricting the discretion of the Court, motions for rehearing or reconsideration which merely present the same issues ruled upon by the Court, either expressly or by reasonable implication, shall not be granted. The movant shall not only demonstrate a palpable defect by which the Court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof.

E.D. Mich. LR 7.1(g)(3).

Plaintiff's letter-Motion is filed beyond the ten-day requirement under Rule 59 and the Local Rule for Motions for Reconsideration of the Court's March 31, 2008 Order and Judgment and the June 4, 2008 Order Denying Application to Proceed *In Forma Pauperis*. Even if the Court were to consider Plaintiff's letter-Motion, the Court finds that Plaintiff's letter-Motion merely presents the same issues, ruled upon by the Court in its March 31, 2008 Order, either expressly or by reasonable implication. Plaintiff has not demonstrated a palpable defect by which the Court and the parties were misled. Plaintiff also has not shown that a different disposition of the case would result from a correction of the Order.

The Court notes that Plaintiff filed a Notice of Appeal in this matter on May 9, 2008. The Court has ruled on Plaintiff's application to proceed *in forma pauperis* on appeal. The Court may no longer have jurisdiction to review the instant motion. Plaintiff should, therefore, pursue his options on appeal at this time.

Accordingly,

IT IS ORDERED that Plaintiffs' Motion for Reconsideration and Relief from Order (**Doc. No. 45, filed July 18, 2008**) is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Application for Appointment of Counsel (**Doc. No. 38, filed May 9, 2008**) is MOOT.

S/Denise Page Hood
Denise Page Hood
United States District Judge

Dated: October 24, 2008

I hereby certify that a copy of the foregoing document was served upon counsel of record on October 24, 2008, by electronic and/or ordinary mail.

S/Lisa Ware for William F. Lewis
Case Manager